IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

NOTICE OF MOTION NO.2765 OF 2004
IN
APPEAL NO.1135 OF 1998
IN
SUMMONS FOR JUDGMENT NO.190 OF 1997
IN
SUIT NO.4392 OF 1996

Nareshchandra M. Mehta — Appellant
vs.
1. Avinash H. Fadia & anr. — Respondents

Mr. A.A. Joshi for the appellant.

Mr.N.S.Fadia for the respondents.

CORAM : DR.S.RADHAKRISHNAN &
ANOOP V. MOHTA,JJ.

DATED : 20th November, 2007

P.C.

Heard the learned counsel for the appellant and the leaned counsel for the respondent.

2. By this Notice of Motion, the Appellant is seeking re-call of our order dated 23.08.2004 dismissing the above Appeal in default. We have perused the affidavit in support of the notice of motion especially for the reasons stated therein, sufficient cause has been made out for recalling the order dated 23.08.2004. There is no case of inaction, negligence or want of bonafide on the part of the appellant. Hence, the Notice of Motion

is made absolute in terms of prayer clause (a).

3. Place the Appeal on board for final hearing on Monday, 26.11.2007.

[DR.S.RADHAKRISHNAN, J.]

[ANOOP V. MOHTA,J.]